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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,699	01/08/2004	Julien Jomphe	682-B01.US	5916

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CANADA

EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/752,699

Applicant(s)

JOMPHE, JULIEN

Examiner

Alexandra K. Pechhold

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10 and 21-24 is/are rejected.
- 7) ☒ Claim(s) 9, 11-20, and 25-35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Objections

1. Claim 25 is objected to because of the following informalities: lines 16 and 17 recite "the first longitudinal beam" and "the second longitudinal beam", respectively, both of which lack antecedent basis. Appropriate corrections are required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-5, 10, and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Winton (US 5,468,173).**

Regarding claim 1, Winton discloses a device for reconditioning a damaged sports surface, the device comprising,

- at least one rotatably driven shaft (seen as vertical wheel drive shaft 26) having a first end and a second end, the first end being connected to a frame (seen as gantry base 45) and the second end being disposed towards the surface, the driven shaft being disposed orthogonal relative to the surface (see Fig. 2); and
- a work head (seen as the abrasive wheels 22 and their mounting structure in Fig. 2) connected to the second end, the work head being in contact with the surface

and rotated relative thereto by the driven shaft so as to recondition the surface (see Fig. 6).

Regarding claim 2, Winton discloses the work head including at least two work head shafts (seen as wheel shafts 23 in Fig. 2) connected to the second end of the driven shaft.

Regarding claim 3, Winton discloses the work head includes three work head shafts (seen as wheel shafts 23 in Fig. 2) connected to the second end of the driven shaft.

Regarding claim 4, Winton illustrates the work head shafts as radially disposed and equidistant from each other in Fig. 2

Regarding claim 5, Winton illustrates in Fig. 2 each of the work head shafts including at least one surface contact wheel (seen as abrasive wheel 22) freely rotatably connected to a shaft end portion.

Regarding claim 10, Winton discloses frame (16) including a first longitudinal beam (rib 111), a second longitudinal beam (rib 111), two side beams (rails 100) and a central beam (rib 104), the side beams and the central beam being connected to the first and second longitudinal beams to define a work space therebetween (as seen in Fig. 5).

Regarding claim 21, the machine of Winton is for use on metal parts (Col 1, lines 11-17), which can be considered an artificial surface.

Regarding claims 22 and 23, the machine of Winton is capable of being used on artificial turf or clay, since the applicant merely recites "a device *for* reconditioning a

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damaged sports surface", and therefore need only be capable of performing this recitation.

Regarding claim 24, Winton discloses the limitation of the claimed recitation as discussed with respect to claim 1 above, and also discloses a vehicle seen as machine (13).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winton (US 5,468,173).**

Regarding claim 6, Winton fails to disclose each of the work head shafts including two spaced apart surface contact wheels that are freely and independently rotatably connected to the shaft end portions. Winton illustrates only one contact wheel on each shaft end portion (see Fig. 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the single contact wheel at the end of each shaft in Winton to comprise two such contact wheels, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

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Regarding claim 7, Fig. 2 of Winton illustrates the driven shaft having a generally vertical axis of rotation and the surface contact wheels each have an axis of rotation generally orthogonal to the axis of rotation of the driven shaft.

Regarding claim 8, the surface contact wheels of Winton include a plurality of circumferentially disposed teeth (seen as the ends of the blades on wheels 22).

Allowable Subject Matter

6. Claims 9, 11-20, and 25-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and if the claim objections noted above were corrected.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (571) 272-6994. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998. The fax phone number for this Group is (703) 872-9306.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
9/9/05